

**REMARKS**

In the Office Action mailed April 17, 2009 the Office noted that claims 1-9 were pending and rejected claims 1-9. Claims 1-6, 8 and 9 have been amended, claim 7 has been canceled, and, thus, in view of the foregoing claims 1-6, 8 and 9 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections are traversed below.

**REJECTIONS under 35 U.S.C. § 112**

Claims 1-9 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

The Applicant has amended the claims to overcome the rejection of the Office. Support for the amendment may be found, for example, in ¶¶ 0024 and 0025 of the printed publication version of the Specification. The Applicant submits that no new matter is believed to have been added by the amendment of the claims.

Withdrawal of the rejection is respectfully requested.

**REJECTIONS under 35 U.S.C. § 101**

Claims 1-9 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular, the Office asserts that the claim fail the machine and

transformation test as set forth in *In re Bilski*. The Applicants have amended claim 1 to have a step in which a computer processes. Support for the amendment may be found, for example, in ¶¶ 0013, 0046 and 0168 of the printed publication version of the Specification. The Applicant submits that no new matter is believed to have been added by the amendment of claim 1.

Withdrawal of the rejection is respectfully requested.

REJECTIONS under 35 U.S.C. § 102 and 103

Claims 1-9 stand rejected under 35 U.S.C. § 102(b) as being anticipated or in the alternative obvious under 35 U.S.C. § 103(a) by Aouni-Ateshian, U.S. Patent No. 6,161,080. The Applicant respectfully disagrees and traverses the rejection with an argument.

Aouni-Ateshian discusses generating a three dimensional representation of one or more anatomical joints, wherein the representation comprises two or more movable bodies and one or more links.

The Applicant have amended claim 1 to include the features of claim 7. The Applicants submit that no new matter has been added by the amendment of claim 1. Further, Aouni-Ateshian fails to disclose "a correction step making radiograph image data and external acquisition data correspond, the correction step comprising: correct the radiograph reconstruction relative to the 3D curve derived from external acquisition data in the same position; and determine the distribution of points in

the 3D curve associated with the vertebrae, positioned in the Stokes coordinate system and their associated tangent."

Aouni-Ateshian does not describe a mechanical personalization of the model. Instead, in Aouni-Ateshian it is indicated that the characteristics are selected (i.e. selecting), such that the characteristics are selected that means that those characteristics are data which are extracted from existing lists. Thus, Aouni-Ateshian does not disclose external acquisitions coupled with acquisitions of geometry (radiology) in order to determine the distribution of the bodies and thus their mobility personalized based on the different positions as in claim 1.

For at least the reasons discussed above, claim 1 and the claims dependent therefrom are patentably distinguishable from the prior art.

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 112, 101, 102 and 103. It is also submitted that claims 1-6, 8 and 9 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this,

concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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